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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,434	03/24/2004	Noel Coyle	PA1555 CIP1	4253
28390 7590 12/27/2007 MEDTRONIC VASCULAR, INC. IP LEGAL DEPARTMENT 3576 UNOCAL PLACE SANTA ROSA, CA 95403			EXAMINER SCHELL, LAURA C	
			ART UNIT 3767	PAPER NUMBER
			NOTIFICATION DATE 12/27/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rs.vasciplegal@medtronic.com

Office Action Summary

Application No.

10/807,434

Applicant(s)

COYLE ET AL.

Examiner

Laura C. Schell

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-18 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sirhan et al. (US 2003/0055377). Sirhan discloses a catheter (Figs. 1 and 3S3, for example) comprising: a shaft portion (Fig. 3S3, 72) defining a guidewire lumen (lumen within 46) and an inflation lumen (75) having a longitudinal cut extending radially from an outer surface of the shaft to the guidewire lumen (Fig. 9A1 discloses an embodiment of the catheter which has a longitudinal cut that extends radially from the outer surface of the shaft to the guidewire lumen), wherein said inflation lumen is arcuate shaped (Fig. 3S3 discloses that the inflation lumen 75 is arcuate shaped); a generally tubular reinforcing member (17) having a first wall thickness and a cross-section of a partial annulus (Fig.

3S3 discloses that the cross section of 17 is a partial annulus in that it is clearly only partly ring-shaped); and a curved elongate reinforcing member (46 is curved and elongate) having a second wall thickness, wherein the curved reinforcing member is disposed on the first reinforcing member (Fig. 3S3 discloses that 46 is disposed on the inside surface of the reinforcing member 17, please note that the claim language does not provide any limitations as to where it is placed in relation to the first reinforcing member, other than it is "on" the reinforcing member) such that the combination of the generally tubular reinforcing member and the curved elongate reinforcing member form the walls of the inflation lumen (the bottom portion of 46 as well as portions of 17 form the walls of the inflation lumen 75) and an upper surface of the curved reinforcing member forms a portion of the guidewire lumen (depending on how the drawing is oriented, any portion of 46 can be considered the upper surface of the curved reinforcing member, as seen in Fig. 3S3, the entire curved elongate reinforcing member forms a portion of the guidewire lumen). Sirhan, however, does not disclose that the second wall thickness is smaller than the first wall thickness. It would have been an obvious matter of design choice to make the second wall thickness smaller than the first wall thickness, as shown by Sirhan in Fig. 9A1, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Allowable Subject Matter

Claims 6-18 are allowed. The following is an examiner's statement of reasons for allowance: The subject matter of the independent claims could either not be found or was not suggested in the prior art of record. The subject matter not found was first and second reinforcing members within a catheter, the first reinforcing member having a partial annular cross-section, the first and second members being mechanically coupled together so as to form a fluidly-sealed inflation lumen, and the first and second reinforcing members having different wall thicknesses.

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are being cited as pertinent art based upon the corresponding listed figures.

US 2003/0163117 (Fig. 13)

US 2005/0070847 (Fig. 5)

US 6,719,748 (all figures)

US 5,720,724 (Fig. 4)

US 7,273,485 (Fig. 5)

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US 6,071,273 (Fig. 8)

US 5,567,203 (Fig. 8)

US 2005/0245962 (Figs. 7a-7f)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Schell whose telephone number is (571) 272-7881. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

